

REMARKS

In the Final Office Action, the Examiner rejected claims 9, 23 - 28, 30 - 32, and 35 -40 under the second paragraph of section 112, rejected claims 35, 37 and 10 as anticipated by the Cornett reference, rejected claims 36, 38, 30, 31, 32 and 9 as obvious over Cornett in view of Bird, took official notice that segmented product offerings are old, took official notice of power plant types, rejected claims 39, 23 and 24 as obvious over Cornett in view of Staples, rejected claims 25 - 27 as obvious over Cornett in view of Staples and Mitchell, rejected claim 28 as obvious over Cornett in view of Staples and Tatum, rejected claim 40 as obvious over Cornett in view of Mandakas, and cited additional prior art of record but not relied upon.

35 USC §112, 2nd ¶

Further information on the benchmarking step is provided in claims 35 and 36. In particular, the claims provide for benchmarking performance of the company against competitors of the company to measure the performance of the maintenance provider against others and against themselves and to improve against the benchmark. Applicants respectfully submit that the claims particularly point out and distinctly claim the invention. As such, withdrawal of the section 112 rejection is hereby requested.

Applicants submit that the section 112 rejections have been overcome.

35 USC §102(b)

The claim 10 has been cancelled without prejudice and so the rejections thereof are moot.

The comments on the Cornett reference (U.S. Patent No. 5,216,612) presented in the previous response are incorporated herein by reference.

The Cornett reference fails to disclose that the rules for carrying out the maintenance policies are jointly developed by production and engineering and maintenance personnel and agreed by executives of the company. Claims 35 and 36 so provide and are therefore distinguishable over the cited reference. This feature is disclosed on page 32, at lines 15 - 18 of the specification.

The Cornett reference fails to disclose that the jointly determined strategies of the maintenance provider and the company to improve performance and reduce costs for the

company are detailed with defined actions assigned to individuals. Claims 35 and 36 so provide and are therefore distinguishable over the cited reference. This feature is disclosed on page 21, at lines 3 – 4 of the specification.

The Cornett reference fails to disclose that the business plan includes a vision statement, a mission statement, values, objectives and key performance indicators. Claims 35 and 36 so provide and are therefore distinguishable over the cited reference. This feature is disclosed on page 32, at lines 11 – 12 of the specification.

The Cornett reference fails to disclose that the organizational structure of the maintenance provider is team based. Claims 35 and 36 so provide and are therefore distinguishable over the cited reference. This feature is disclosed on page 11, at lines 11 – 12 of the specification.

As such, many features of the claims as presented hereinabove are not found nor suggested in the cited reference. The claimed invention is therefore patentably distinct thereover.

The claims of the present application have been amended to distinguish over the cited reference and Applicants submit that withdrawal of the rejection is in order.

35 USC §103(a)

The Cornett reference is combined with Bird. Comments on the Bird reference are found in the prior response, which comments are incorporated herein by reference.

The Bird reference does not teach or suggest the features presented in the claims as set forth above. Specifically, the features noted above as missing from the Cornett reference are also lacking in the Bird reference. Even when the Bird reference is combined with Cornett, the invention is not taught or suggested to the person of ordinary skill in the art.

The Staples reference, the Mitchell reference, the Tatum reference and the Mandakas reference cited by the Examiner in combination with Cornett and/or Bird fail to disclose or suggest the improvements claimed in the claims as presented hereinabove.

As such, the claimed invention is a non-obvious improvement over the cited art, whether considered alone or in combination.

Additional Prior Art

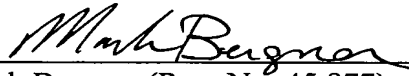
Applicants note the additional prior art cited by the Examiner. The referenced publications related to earlier work by the assignee of the present application.

Applicants respectfully submit that the claimed invention was not in use before the filing date of the provisional patent application upon which the present application claims benefits. The concepts of the present invention were developed as a part of the SIMANUEL concept that was developed shortly before the provisional application filing date.

Conclusion

Favorable consideration of the present application in view of the foregoing is hereby respectfully requested.

Respectfully submitted,



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